

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RODNEY L. MOSBY,
Petitioner,

v.

WARDEN, GLEN TURNER, ET AL.,
Respondents.

No. **3 05 0669**
Judge Campbell

ORDER

The Court has before it a motion for a writ of *habeas corpus* filed by a *pro se* prisoner pursuant to 28 U.S.C. § 2254.¹ The petitioner is a prisoner at the Hardeman County Correctional Facility in Whiteville, Tennessee.

The petitioner also has submitted an application to proceed *in forma pauperis*. It appears from the petitioner's application that he lacks sufficient financial resources to pay the filing fee for this action. Therefore, pursuant to 28 U.S.C. § 1915(a), the Clerk will file this petition *in forma pauperis*.

As provided in the Memorandum entered contemporaneously herewith, the petition and accompanying documents clearly establish that the petitioner is not entitled to federal *habeas corpus* relief. Specifically, the plaintiff's claims under *Blakely v. Washington* 542 U.S. 296 (2004) are without merit, and the remainder of his claims are both time and procedurally barred. Accordingly, the petitioner's request for federal *habeas corpus* relief is DENIED. Rule 4, Rules – Section 2254 Cases.

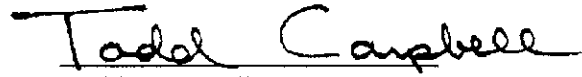
Should the petitioner file a timely notice of appeal from this Order, such notice shall be

¹ The documentation accompanying the petition indicates that the petitioner is seeking relief under 28 U.S.C. §§ 2241, 2254, and 2255. However, as explained in the accompanying Memorandum, neither § 2241 nor § 2255 are applicable to this action.

docketed as both a notice of appeal and an application for a certificate of appealability, 28 U.S.C. § 2253(c); Rule 22(b), Fed. R. App. P.; *see Slack v. McDaniel*, 529 U.S. 473, 483 (2000), which will NOT issue because the petitioner has failed to make a substantial showing of a violation of a constitutional right, *see Castro v. United States of America*, 310 F.3d 900, 901 (6th Cir. 2002).

Entry of this Order shall constitute the judgment in this action.

It is so ORDERED.

A handwritten signature in black ink, reading "Todd Campbell". The signature is written in a cursive, flowing style. The first name "Todd" is written with a large, prominent "T" and a small "d". The last name "Campbell" is written with a large "C" and a small "p". The signature is written on a horizontal line.

Todd Campbell
Chief District Judge